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WASHINGTON DC 20036-3307

In re Application of :
Jones et al. :
Application No. 10/697,945 : DECISION GRANTING
Filed: 31 October, 2003 : PETITION
Attorney Docket No. 84710/3157 KAW :

This is a decision on the petition filed on 26 May, 2004,, which is treated as a petition under 37 CFR 1.53 requesting that the above identified application be accorded a filing date of 31 October, 2003, with four (4) sheets of drawings as a part of the original disclosure.

The petition is GRANTED.

The application was filed on 31 October, 2003. On 24 May, 2004, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date that the drawings were received in accordance with 35 U.S.C. § 113. The Notice also stated that the oath or declaration was missing. A two (2)-month period for reply was set.

In response, on 26 May, 2004, the present petition was filed, whereby petitioners assert that the application as filed included four (4) sheets of drawings, which were lost after receipt in the USPTO. In support, a copy of petitioners' postcard receipt were provided. The postcard bears an Office date stamp of 31 October, 2003, and the above identified application number. The postcard identifies the application by inventor's last name and attorney's mailing address, and itemizes, *inter alia*, Informal Drawings - (4) sheets. Petitioners have also supplied a copy of four (4) sheets of drawings.

A review of the record reveals that no sheets of drawings are located among the application papers deposited on 31 October, 2003. However, the evidence is convincing that the application papers deposited on 31 October, 2003, included four (4) sheets of drawings, which were subsequently misplaced in the Office.

Therefore, the application, including four (4) sheets of drawings, is entitled to a filing date of 31 October, 2003.

The Notice of Incomplete Nonprovisional Application mailed on 24 May, 2004, was sent in error, and is hereby vacated to the extent that it stated that the application was deposited without drawings.

In view of the above, the petition is granted. The petition fee of \$130.00 paid is unnecessary and will be credited to counsel's deposit account, No. 50-0687 as authorized on the application transmittal letter.

The application will be processed and examined with a filing date of 31 October, 2003, using the four (4) sheets of drawings supplied on 26 May, 2004. The other application papers filed on 26 May, 2004, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of 31 October, 2003, using the application papers filed on that date and the four (4) sheets of drawings supplied with the present petition.

Telephone inquiries should be directed to the undersigned at 703 308-6918.



Douglas I. Wood
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